



IR DPC

**PATENT PETITION**

**Attorney Docket No.:**

200415-0001-00-US (404536)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Patent in the name of Michael Conor Minogue, et al. :  
Ser. No.:09/902,287 (now US 7,069,089) : US Class: 607/149  
Filed: July 10, 2001 :  
For: ABDOMINAL BELT WITH ADJUSTABLE ELECTRODES :

**PETITION UNDER 37 CFR 1.78(a)(3) TO ACCEPT UNINTENTIONALLY DELAYED**

**CLAIM OF PRIORITY UNDER 37 CFR 1.78(a)(2) AND (5)**

**MAIL STOP PETITION**

Office of Petitions

P.O. Box 1450

Alexandria, VA 22313-1450

Sir or Madam:

Patentees in the above-identified patent hereby petition under 37 C.F.R. § 1.78(a)(3) for acceptance of a priority claim, which was made, but allegedly not perfected in the present patent. The surcharge set forth in 37 C.F.R. § 1.17(t) accompanies this petition. No other fee is believed due. Please charge any fee that is due, and credit any overpayment, to Deposit Account No. 50-0573.

**CERTIFICATE OF MAILING  
UNDER 37 C.F.R. 1.8(a)**

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date indicated below, with sufficient postage, as first class mail, in an envelope addressed to: MAIL STOP PETITION, Office of Petitions, P.O. Box 1450, Alexandria, VA 22313-1450.

BY

*[Signature]*

DATE:

*June 4, 2009*

### **Statement of Facts**

- Patentees filed Irish Application No. S1999/0016 (the "Irish Application") on January 11, 1999.
- Patentees filed PCT/IE00/00004 (the "PCT Application") on January 11, 2000, claiming benefit from the "Irish Application."
- Patentees filed the present application/patent (*i.e.*, US Ser. No. 09/902,287 (now US 7,069,089)) on July 10, 2001. The present application/patent is a continuation of the PCT Application.
- Along with the present application/patent, patentees filed an unsigned declaration that claimed the benefit of priority of the Irish Application and noted that the present application/patent is a continuation of PCT Application. *See Exhibit A.*
- In response to a Notice of Missing Parts, the patentees filed a signed copy of the declaration on October 26, 2001. *See Exhibit B.*
- The PTO acknowledged the claim of priority in an Office Action dated September 12, 2003, where it stated "Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Ireland on Jan 11, 1999. It is noted, however, that applicant has not filed a certified copy of the S990016 application as required by 35 U.S.C. 119(b)." *See Exhibit C.*
- On March 11, 2004, patentees amended the specification of the present application/patent to include a reference to the priority claim. *See Exhibit D.* Specifically, patentees stated "This application is a continuation application of PCT/IE00/00004, filed on January 11, 2000 which claims the benefit of priority to Irish Application No. S1999/0016, filed on January 11, 1999.
- On July 30, 2004, patentees provided the PTO with a certified copy of the Irish Application.
- The PTO "Verified and Acknowledged" the claim of priority in a Bibliographic Data Sheet, which was originally filed along with the present application/patent on July 10, 2001. *See Exhibit E.*

- On May 12, 2006, patentees filed US Ser. No. 11/434,436 ("child application"), which is a divisional of the present application/patent. Patentees stated on the Utility Patent Application Transmittal that the child application is a divisional of the present application/patent. *See Exhibit F.*

- Along with the child application, patentees filed a copy of the declaration from the present application/patent, which is a continuation of the PCT Application and claims priority to the Irish Application.

- On June 9, 2006, the PTO issued a Filing Receipt in the child application. *See Exhibit G.* Under "Domestic Priority data as claimed by applicant" the PTO stated "This application is a DIV of 09/902,287 07/10/2001 PAT 7,069,089." Under "Foreign Applications" the PTO listed "IRELAND S990016 01/11/1999" and "IRELAND PCT/IE00/00004 01/11/2000."

#### **Remarks**

MPEP 201.11(III)(D) states: "If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt."

Here, patentees, along with the present application/patent, filed a declaration that included a claim to the benefit of priority of the Irish Application and noted that the present application/patent is a continuation of PCT Application. The Office never issued filing receipt, but it did recognize the priority claim. In fact, the patent issued with the following text:

#### **"CROSS REFERENCE TO RELATED APPLICATIONS**

This application is a continuation application of PCT/IE00/00004, filed on Jan. 11, 2000 which claims the benefit of priority to Irish Application No. S1999/0016, filed on Jan. 11, 1999."

Moreover, the Filing Receipt for the child application acknowledges the chain of title going back to the Irish Application.

In other words, patentees included a benefit claim within the time period set forth in 37 CFR 1.78(a), but because no filing receipt was ever issued for the case, patentees are forced to file this petition. Because the PTO has repeatedly accepted the patentee's claim for priority, and even included it in the issued patent, the granting of this petition should be merely a formality.

Patentees state that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2)(ii) and that date the claim was filed was unintentional.

Based on the foregoing, patentees respectfully request that its claim to priority to the Irish application be perfected.

Respectfully submitted,

MICHAEL CONOR MINOGUE, *et al.*

By:



LARRY S. ZELSON  
Registration No. 48,553  
Drinker, Biddle & Reath LLP  
Customer Number 55694  
One Logan Square  
18th and Cherry Streets  
Philadelphia, PA 19103-6996  
Tel: 215-988-2932  
Fax: 215-988-2757  
Attorney for Applicants

# EXHIBIT A



Best Available Copy

**DECLARATION FOR PATENT APPLICATION (JOINT OR SOLE)**

(Under 37 CFR § 1.63; with Power of Attorney)  
**FROMMER LAWRENCE & HAUG LLP**

660057-2005

As a below named inventor, I hereby declare that:

This declaration is a continuation type declaration.

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention ENTITLED:

**AN ELECTROTHERAPY DEVICE AND METHOD**

the specification of which

X is attached hereto.

was filed on \_\_\_\_\_ as International Application Serial No. \_\_\_\_\_

with amendment(s) through \_\_\_\_\_ (if applicable, give dates).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

**Prior Foreign Application(s)** (list additional applications on separate page):

**Number:**  
S990016

**Country:**  
Ireland

**Filed (Day/Month/Year):**  
11 January 1999

**Priority Claimed:**

**Yes** **No**  
x

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT International Application(s) designating The United States listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

**Prior PCT Application(s)** (list additional applications on separate page):

**Appln. Ser. Number:**

PCT/E00/00004

**International Filing Date:**

11 January 2000

**Status (pending, abandoned):**

Pending

I hereby appoint GORDON KESSLER, Registration No. 38,511 or their duly appointed associate, my attorneys, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to file continuation and divisional applications thereof, to receive the Patent, and to transact all business in the Patent and Trademark Office and in the Courts in connection therewith, and specify that all communications about the application are to be directed to the following correspondence address:

GORDON KESSLER, Esq.  
c/o FROMMER LAWRENCE & HAUG LLP  
745 Fifth Avenue  
New York, New York 10151

Direct all telephone calls to:  
(212) 588-0800  
to the attention of:  
GORDON KESSLER

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**INVENTOR(S)**

Signature: \_\_\_\_\_

Full name of sole or first inventor:

**MICHAEL CONOR MINOGUE**

Residence:

Croshua, Kinvara  
County Galway, Ireland

Citizenship:

Ireland

Date: \_\_\_\_\_

[Similarly list additional inventors on separate page]

Post Office Address(es) of inventor(s):

Note: In order to qualify for reduced fees available to Small Entities, each inventor and any other individual or entity having rights to the invention must also sign an appropriate separate "Verified Statement (Declaration) Claiming [or Supporting a Claim by Another for] Small Entity Status" form [e.g. for Independent Inventor, Small Business Concern, Nonprofit Organization, individual Non-Inventor].

00017087

DECLARATION FOR PATENT APPLICATION (JOINT OR SOLE)

(Under 37 CFR § 1.63; with Power of Attorney)

FROMMER LAWRENCE & HAUG LLP

660057-2005

ADDITIONAL INVENTORS

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of 2nd joint inventor (if any): **MICHAEL LOUIS CROWE**

Residence: 65 Beech Park Road

Dublin 18, Ireland

Citizenship: Ireland

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Full name of 3rd joint inventor (if any):

Residence:

Citizenship:

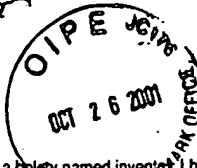
00017087

# EXHIBIT B



COPY OF PAPERS  
ORIGINALLY FILED

660057-2005



**DECLARATION FOR PATENT APPLICATION (JOINT OR SOLE)**  
(Under 37 CFR § 1.63; with Power of Attorney)  
**FROMMER LAWRENCE & HAUG LLP**

As a below named inventor, I hereby declare that:  
This declaration is a continuation type declaration.

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention ENTITLED:

**AN ELECTROTHERAPY DEVICE AND METHOD**

the specification of which

is attached hereto.

X was filed on July 10, 2001 as U.S. Application Serial No. 09/902,287  
with amendment(s) through \_\_\_\_\_ (if applicable, give dates).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

**Prior Foreign Application(s)** (list additional applications on separate page):

**Number:**  
S990016

**Country:**  
Ireland

**Filed (Day/Month/Year):**  
11 January 1999

**Priority Claimed:**

**Yes** **No**  
x

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT International Application(s) designating The United States listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Sec. 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

**Prior PCT Application(s)** (list additional applications on separate page):

**Appln. Ser. Number:**

PCT/E00/00004

**International Filing Date:**

11 January 2000

**Status (pending, abandoned):**

Pending

I hereby appoint GORDON KESSLER, Registration No. 38,511, or their duly appointed associate, my attorneys, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to file continuation and divisional applications thereof, to receive the Patent, and to transact all business in the Patent and Trademark Office and in the Courts in connection therewith, and specify that all communications about the application are to be directed to the following correspondence address:

GORDON KESSLER, Esq.  
c/o FROMMER LAWRENCE & HAUG LLP  
745 Fifth Avenue  
New York, New York 10151

Direct all telephone calls to:  
(212) 588-0800  
to the attention of:  
GORDON KESSLER

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**INVENTOR(S)**

Signature: \_\_\_\_\_

Full name of sole or first inventor:

MICHAEL CONOR MINOGUE

Residence:

Croshua, Kinvara  
County Galway, Ireland

Citizenship:

Ireland

Date: OCT 15 2001

(Similarly list additional inventors on separate page)

Post Office Address(es) of inventor(s):

Note: In order to qualify for reduced fees available to Small Entities, each inventor and any other individual or entity having rights to the invention must also sign an appropriate separate "Verified Statement (Declaration) Claiming [or Supporting a Claim by Another for] Small Entity Status" form [e.g. for Independent Inventor, Small Business Concern, Nonprofit Organization, individual Non-Inventor].

00032315

**DECLARATION FOR PATENT APPLICATION (JOINT OR SOLE)**  
(Under 37 CFR § 1.63; with Power of Attorney)  
**FROMMER LAWRENCE & HAUG LLP**

660057-2005

ADDITIONAL INVENTORS

Signature: *Michael Louis Crowe*  
Full name of 2nd joint inventor (if any): **MICHAEL LOUIS CROWE**  
Residence: **65 Beech Park Road**  
**Dublin 18, Ireland**  
Citizenship: **Ireland**

Date: *Oct-16<sup>th</sup> 2001*

Signature: \_\_\_\_\_  
Full name of 3rd joint inventor (if any): \_\_\_\_\_  
Residence: \_\_\_\_\_  
Citizenship: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT C



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,287	07/10/2001	Michael Conor Minogue		8694

20999 7590 09/12/2003

FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER

DROESCH, KRISTEN L

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

**Office Action Summary**

Application No.

09/902,287

Applicant(s)

MINOGUE ET AL

Examiner

Kristen L Droesch

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2002.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1                      6) ☐ Other:

Application/Control Number: 09/902,287  
Art Unit: 3762

Page 2

**DETAILED ACTION***Priority*

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Ireland on Jan 11, 1999. It is noted, however, that applicant has not filed a certified copy of the S990016 application as required by 35 U.S.C. 119(b).

*Specification*

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: ABDOMINAL BELT WITH ADJUSTABLE

---

ELECTRODES.

*Claim Objections*

3. Claim 35 is objected to because of the following informalities: in line 2, "extends" should be changed to --extending--. Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 15-17, 19-20, 27, 33-36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 15 recites the limitation "the rest of the attachment means" in lines 3-4.

Claim 16 recites the limitation "each main locating means" in lines 3-4, while claim 1 refers to "a main locating means".

Application/Control Number: 09/902,287  
Art Unit: 3762

Page 3

Claim 19 recites the limitation "the corresponding set of secondary locating means" in lines 2-3.

Claim 20 recites the limitation "the corresponding set of secondary locating means" in line 2.

Claim 27 recites the limitation "each central electrode" in line 1.

Claim 33 recites the limitation "each main contact means" in lines 2-3

Claim 34 recites the limitation "each electrical connecting means" in line 1, while claim 33 refers to "*a* main electrical connecting means".

Claim 35 recites the limitation "each secondary contact means" in lines 2-3.

---

Claim 36 recites the limitation "each electrical connecting means" in line 1, while claim 35 refers to "*a* secondary electrical connecting means".

There is insufficient antecedent basis for these limitations in these claims.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-5, 8-11, 14-15, 21-26, 30-31, 38-39, 52-55, 59 and 61-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Linder (5,190,036).

Application/Control Number: 09/902,287  
Art Unit: 3762

Page 4

Regarding claim 1, Linder shows attachment means (14) for extending around the torso of a subject; a main locating means (triangular reference 26) for locating a central electrode (the central electrode of the three electrodes on the right or the central electrode of the three electrodes on the left) adjacent the umbilicus of the subject; and two secondary locating means (semi-circular references 26 on either side of triangular reference 26) provided on the attachment means disposed on opposite sides of the main locating means for locating two corresponding side electrodes (any of the top or bottom electrodes (18) of the three electrodes on the right or left) spaced apart from the central electrode (18) (Fig. 1).

With respect to claim 2, Linder shows the two corresponding electrodes are spaced apart from the central electrode in a general direction towards a corresponding *one* of the left or right mid axillary line of the torso intermediate the rib cage and the corresponding right and left iliac crests. The examiner points out that the central electrode could be interpreted to be the middle electrode of the three electrodes (18) located on the left side of the belt, and the two corresponding electrodes could be any of the three electrodes (18) located on the right side of the belt in a general direction towards a corresponding right mid axillary line of the torso intermediate the rib cage and the corresponding right iliac crest.

Regarding claims 3-5, Linder shows the secondary locating means (semi-circular references 26 on either side of triangular reference 26) are disposed on the attachment means for locating the respective side electrodes adjacent the corresponding mid-axillary line or adjacent or toward the midpoint of the corresponding mid-axillary line between the rib cage and the corresponding iliac crest (Fig. 1).



Application/Control Number: 09/902,287  
Art Unit: 3762

Page 5

Regarding claims 8-10, Linder shows the a reference means (26) for locating the attachment means on the torso relative an anatomic reference, circumferentially around the torso and vertically along the torso (Fig. 1).

With respect to claim 11, Linder shows the main locating means (triangular reference 26) acts as a reference means for locating the attachment means relative to the umbilicus (Fig. 1).

Regarding claims 14-15, Linder further shows the attachment means is formed of resilient material (Col. 2, lines 66-67).

With respect to claims 21-22, Linder further shows each main and secondary locating means (26) is provided as a visually perceptive locating means and formed as a corresponding locating mark on the attachment means (Fig. 1).

---

Regarding claims 23-25, Linder shows each locating means is adapted for locating a patch type electrode and the at least three electrodes are formed as a removable part of the device (Fig. 1; Col. 3, lines 24-28).

With respect to claim 26, Linder shows each side electrode is sized to cover at least a portion of the corresponding lower thoracic nerves and corresponding first and second lumbar nerves (Fig. 1).

Regarding claims 30-31, Linder further shows an electrically conductive gel-type coating provided on a side of each electrode facing away from the attachment means for electrically coupling the electrode to the torso of the subject (Col. 3, lines 24-33).

With respect to claims 38-39, Linder further shows the attachment means comprises a belt (14) and a securing means (Fig. 1; Col. 2, line 67-Col. 3, line 3).

Regarding claim 52, Linder shows a method comprising providing at least three electrodes (18), one of the at least three electrode being a central electrode located adjacent the

Art Unit: 3762

umbilicus of the subject, and the other two electrodes are side electrodes spaced apart on the subject from the central electrode and located on the subject on respective sides of the central electrode in a general direction towards *one* of the left and right mid axillary lines intermediate the rib cage and corresponding left and right iliac crests and passing at least one pulsed signal subcutaneously through the subject between the at least three electrodes. Again, the examiner points out that the central electrode could be interpreted to be the middle electrode (18) of the three electrodes (18) located on the left side of the belt, and the two corresponding electrodes could be any of the three electrodes (18) located on the right side of the belt in a general direction towards a corresponding right mid axillary line of the torso intermediate the rib cage and the corresponding right iliac crest.

---

With respect to claims 53-55, Linder shows each side electrode (18) is located towards and adjacent the midpoint of the corresponding mid axillary line of the torso intermediate the rib cage and the corresponding iliac crest (Fig. 1).

Regarding claim 59, Linder further shows the step of applying the at least one pulse signal to the subject.

With respect to claims 61-63, Linder shows a plurality of pulses at intervals in the range of 5 milliseconds to 1000 milliseconds and in the range of 20 milliseconds to 40 milliseconds and approximately 30 milliseconds  $\pm$  20% (Col. 3, lines 51-52). 40Hz roughly corresponds to an interval of 25 milliseconds and 70Hz roughly corresponds to an interval of 14 milliseconds.

Regarding claim 64, Linder shows the interval between pulses is adjustable (Col. 3, lines 38-41, 54-61).

With respect to claims 65-68, Linder shows each pulse signal comprises pulses of duration in the range of 50 microseconds to 2000000 microseconds, pulses of duration in the

Application/Control Number: 09/902,287

Page 7

Art Unit: 3762

range of 50 microseconds to 1000 microseconds, pulses of duration in the range of 100 microseconds to 500 microseconds, pulses of duration of approximately 300 microseconds  $\pm$  20% (Col. 3, lines 46-50).

Regarding claim 69, Linder shows the duration of each pulsed is adjustable (Col. 3, lines 38-41, 46-50).

With respect to claim 70, Linder shows each pulsed signal comprises a plurality of pulses of magnitude in the range of 0mA to 100mA (Col. 3, lines 65-68).

Regarding claim 71, Linder shows the magnitude of each pulse of each pulsed signal is adjustable (Col. 3, lines 38-41, 62-68).

---

9. Claims 1-12, 14-23, 27-28, 32-36, 38-39, 52-60, and 71 are rejected under 35 U.S.C. 102(e) as being anticipated by Hurtado (6,341,237).

Regarding claim 1, Hurtado shows a device including attachment means (120) for extending around the torso of a subject; a main locating means (track 36) for locating a central electrode (144) adjacent the umbilicus of the subject; and two secondary locating means (tracks 36) provided on the attachment means disposed on opposite sides of the main locating means for locating two corresponding side electrodes (146, 148, 150, 152) of the at least three electrodes spaced apart from the central electrode (144) (Fig 9; Col. 10, line 40-Col. 11, line 17; Figs. 3 6; Col 9, lines 51-58).

With respect to claim 2, Hurtado shows the two corresponding electrodes (146, 148, 150, 152) are spaced apart from the central electrode (144) in a general direction towards a corresponding one of the left or right mid axillary line of the torso intermediate the rib cage and the corresponding right and left iliac crests (Fig 9; Col. 10, line 40-Col. 11, line 17).

Application/Control Number: 09/902,287  
Art Unit: 3762

Page 8

Regarding claims 3-5, Hurtado shows the secondary locating means (tracks 36) are disposed on the attachment means for locating the respective side electrodes toward the midpoint of the corresponding mid-axillary line between the rib cage and the corresponding iliac crest, adjacent the corresponding mid-axillary line, and adjacent the midpoint of the corresponding mid-axillary line between the rib cage and the corresponding iliac crest (Fig 9; Col. 10, line 40-Col. 11, line 17; Figs. 3 6; Col 9, lines 51-58).

With respect to claims 6-7, Hurtado shows the main locating means (track 36) is disposed on the attachment means for locating the central electrode on the umbilicus and extending completely around the umbilicus (Figs. 7-9, Col. 4, line 65-Col. 5, line 21; Col. 10, lines 53-60).

---

Regarding claims 8-10, Hurtado shows the a reference means (tracks 36) for locating the attachment means on the torso relative an anatomic reference, circumfrentially around the torso and vertically along the torso (Figs. 3, 6-9).

With respect to claim 11, Hurtado shows the main locating means (track 36 for electrode 144) acts as a reference means for locating the attachment means relative to the umbilicus (Figs. 3, 6-9; Col. 4, line 65-Col. 5, line 21; Col. 10, lines 53-60).

Regarding claim 12, Hurtado shows at least two sets (tracks 36 of electrodes 150 and 152, and tracks 36 for electrodes 146, and 148) of at least two secondary locating means disposed on the opposite sides of the main locating means (Figs. 3, 6, 9).

With respect to claims 14-15, Hurtado further shows the attachment means is formed of resilient material (Col. 10, line 45-47; Col. 9, lines 3-20).

Regarding claims 16-18, Hurtado further shows the main electrically conductive contact means (36) is provided on the attachment means corresponding to the main locating means and located within and adjacent to the main locating means (36) (Col. 9, lines 54-55).

Regarding claims 19-20, Hurtado further shows each secondary contact means (tracks 36) is located adjacent the secondary locating means or the corresponding set of secondary locating means (Figs. 3, 6, 9).

With respect to claims 21-22, Hurtado further shows each main and secondary locating means (tracks 36) is provided as a visually perceptible locating means and formed as a corresponding locating mark on the attachment means (Figs. 3, 6).

Regarding claim 23, Hurtado shows each locating means (36) is adapted for locating a patch type electrode (Figs. 2, 3, 6).

With respect to claim 27, Hurtado shows each central electrode (140, 142, 144) is sized to extend substantially across the rectus abdominus muscle (Fig. 9; Col. 10, line 40-Col. 11, line 17).

Regarding claim 28, Hurtado further shows the area of contact of each side electrode (146, 148, 150, 152) does not exceed the area of contact of the central electrode (144) (Fig. 9).

With respect to claim 32, Hurtado further shows a receiving means provided in the attachment means for receiving a signal generating means (121) (Col. 11, lines 19-20).

Regarding claims 33-36, Hurtado further shows main and secondary electrical connecting means (dashed lines) extending between the receiving means and the signal generating means (121) and the main contact means (Figs. 1-3, 6, 9).

With respect to claim 38-39, Hurtado further shows the attachment means comprises a belt (124) and a securing means (130) (Fig. 9).

Regarding claim 52, Hurtado shows a method comprising providing at least three electrodes (140, 142, 144, 146, 148, 150, 152), one of the at least three electrodes being a central electrode (140, 142, 144) located adjacent the umbilicus of the subject, and the other two

Application/Control Number: 09/902,287  
Art Unit: 3762

Page 10

electrodes are side electrodes spaced apart on the subject from the central electrode and located on the subject on respective sides of the central electrode in a general direction towards one of the left and right mid axillary lines intermediate the rib cage and corresponding left and right iliac crests and passing at least one pulsed signal subcutaneously through the subject between the at least three electrodes (Fig. 9; Col. 4, line 48-Col.5, line 21; Col. 10, line 40-Col. 11, line 33).

With respect to claims 53-55, Hurtado shows each side electrode (146, 148, 150, 152) is located towards and adjacent the midpoint of the corresponding mid axillary line of the torso intermediate the rib cage and the corresponding iliac crest (Fig 9; Col. 10, line 40-Col. 11, line 17).

---

With respect to claims 56-57, Hurtado shows the central electrode (140, 142, 144) is located on the umbilicus and extends completely around the umbilicus (Figs. 7-9, Col. 4, line 65-Col. 5, line 21; Col. 10, lines 53-60).

Regarding claim 58, Hurtado shows the central electrode (140, 142, 144) is located on the umbilicus but with a greater area of the central electrode (142, 144) located below the umbilicus than above the umbilicus (144, 140) (Fig. 9; Col. 10, line 40-Col. 11, line 33).

With respect to claim 59, Hurtado further shows the step of applying the at least one pulse signal to the subject.

Regarding claim 60, Hurtado further shows the at least one pulsed signal is applied simultaneously to each of the side electrodes (Col. 11, lines 27-33).

Regarding claim 71, Hurtado further shows the magnitude of each pulse of each pulsed signal is adjustable (Col. 3, lines 63-67).

Application/Control Number: 09/902,287

Page 11

Art Unit: 3762

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurtado (6,341,237) as applied to claim 12. Hurtado discloses the claimed invention except for each set of secondary locating means comprising three secondary locating means. It would have been an obvious design choice to one with ordinary skill in the art at the time the invention was made to modify each set of secondary locating means with two secondary locating means as taught by Hurtado with each set of secondary locating means having three secondary locating means, since applicant has not disclosed that this third locating means provides any criticality and /or unexpected results and it appears that the invention would perform equally well with any number of secondary locating means in the set of secondary locating means such as the two secondary locating means as taught by Hurtado for locating electrodes on the belt.

12. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Linder (5,190,036). Linder discloses the claimed invention except for the specific size of the each side electrode. It would have been an obvious matter of design choice to form the side electrode having a width of 50 mm to 150 mm since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Application/Control Number: 09/902,287

Page 12

Art Unit: 3762

13. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurtado (6,341,237). Hurtado discloses the claimed invention except for the specific size of the each side electrode. It would have been an obvious matter of design choice to form the side electrode having a width of 50 mm to 150 mm since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 UPSQ 237 (CCPA 1955).

14. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurtado (6,341,237) as applied to claim 32 above, and further in view of Russek (4,381,012). Although Hurtado fails to show the receiving means is a releasable receiving means for releasably

---

receiving the signal generating means, attention is directed to Russek which shows a similar device and teaches that the attachment means comprises receiving means made of VELCRO for releasably receiving the signal generating means. Russek teaches that the releasable receiving means allows for the signal generating means to be located in a convenient location on the attachment means (Col. 6, lines 43-53). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the device of Hurtado with receiving means made of VELCRO for releasably receiving the signal generating means in order to allow for the signal generating means to be located in a convenient location on the attachment means.

15. Claims 40-45, 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurtado (6,341,237) as applied to claim 1 above, and further in view of Russek (4,381,012). Although Hurtado fails to show a main fastening means provided corresponding to the main locating means and secondary fastening for fastening the respective side electrodes to the attachment means adjacent the secondary located means, attention is directed to Russek which



Application/Control Number: 09/902,287  
Art Unit: 3762

Page 13

shows a similar device with fastening means comprising stud fasteners (Figs. 9-11, 18; Col. 5, lines 26-54). Russek teaches that utilizing stud fastener fastening means is advantageous since it allows wires to be run external to the belt rather than within the belt resulting in a minimal number of wires that can be damaged during laundering (Col. 5, lines 47-54). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the device of Hurtado with a main fastening means and secondary fastening means comprising stud fasteners since Russek teaches stud fastener fastening means are advantageous since it allows wires to be run external to the belt rather than within the belt resulting in a minimal number of wires that can be damaged during laundering.

---

Regarding claim 44, Russek further shows each stud fastener comprises a female (61-66) and male part (66') (Figs. 9-10, 18)

With respect to claim 45, Russek further shows each stud fastener is electrically conductive (Col. 5, lines 26-54).

Regarding claims 48-49, Russek shows each stud fastener comprises a first part (57) for attaching to a corresponding electrode and a second part (66) for attaching to the attachment means wherein the first and second parts engage each other with electrically conductive engagement.

16. Claims 46-47, and 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurtado (6,341,237) and Russek (4,381,012) as applied to claims 44 and 48 above. Hurtado and Russek disclose the claimed invention except for showing the exposed surface of the portions of each stud fastener attached to the attachment means is of electrically insulating material provided by an electrically insulated coating. It would have been an obvious design choice to one with ordinary skill in the art at the time the invention was made to modify the exposed portions of the

Application/Control Number: 09/902,287

Page 14

Art Unit: 3762

stud fasteners as taught by Hurtado and Russek with insulating coatings in order to protect a user who may come into contact with the exposed portions of the stud fasteners from electrical shock.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen L Droesch whose telephone number is 703-605-1185.

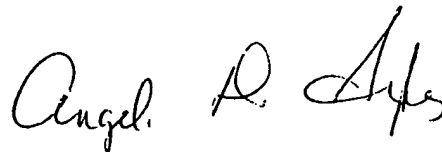
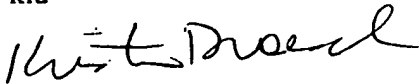
The examiner can normally be reached on M-F, 10:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angie Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

---

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

kld



ANGELA D. SYKES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

# EXHIBIT D



PATENT  
660057-2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Michael Conor MINOGUE  
Michael Louis CROWE

U.S. Appln. No. : 09/902,287

U.S. Filing Date : July 10, 2001

Title of Invention : AN ELECTROTHERAPY DEVICE AND  
METHOD

Examiner: K. Droesch

Group Art Unit: : 3762

11/A  
B. Webb  
3/17/04

745 Fifth Avenue  
New York, NY 10151

RECEIVED  
MAR 16 2004  
TECHNOLOGY CENTER R3700

I hereby certify that this correspondence is being deposited with  
the United States Postal Service as first class mail in an envelope  
addressed to: Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450, on March 9, 2004.

*Nathan Weber Reg No 50,958*

Name of Applicant, Assignor or Registered Representative

*[Signature]*

Signature

March 9, 2004

Date of Signature

RESPONSE TO OFFICE ACTION UNDER 37 C.F.R. § 1.111

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Madam:

This Response is submitted in response to the Office Action of September 12, 2003.

03/12/2004 SDENBOR1 00000025 09902287

01 FC:2253

475.00 OP

00179233

Please amend the above-referenced application as follows:

**IN THE SPECIFICATION**

1. Please rewrite the title of the present invention as suggested by the Examiner as follows:

--ABDOMINAL BELT WITH ADJUSTABLE ELECTRODES--

2. Immediately following the Title of the Invention on page 1 please insert the following:

-- CROSS REFERENCE TO RELATED APPLICATIONS

This application is a continuation application of PCT/IE00/00004, filed on  
January 11, 2000 which claims the benefit of priority to Irish Application No.  
S1999/0016, filed on January 11, 1999.

Background of the Invention

1. <sup>Field</sup> ~~Filed~~ of the Invention--

3. Immediately following the first full paragraph on page 1 (approximately line 8) please insert  
the following:

--2. Description of the Prior Art--

4. Immediately following the first full paragraph on page 2 (approximately line 9) please insert  
the following:

--Summary of the Invention--

5. Immediately following the last full paragraph on page 16 (approximately line 27) please insert  
the following:

--Brief Description of the Figures--

6. Immediately following the description of Fig. 30 on page 19 (approximately line 2) please insert the following:

--Detailed Description of the Preferred Embodiments--

---

**IN THE CLAIMS**

Please amend the claims as follows:

1. (Currently Amended) A device for attaching at least three electrodes to a subject for stimulating abdominal muscles of the subject, comprising:

attachment means for extending around the torso of the subject;

a main locating means provided on the attachment means for locating a central electrode of the at least three electrodes ~~adjacent~~ substantially about the umbilicus of the subject;

and

*A2* two secondary locating means provided on the attachment means disposed on ~~respective opposite sides of the main locating means for locating two corresponding side~~  
electrodes of the at least three electrodes ~~spaced apart from the central electrode~~, a first of the two side electrodes spaced apart from the central electrode in a general direction towards the left mid-axillary of the subject and a second of the two side electrodes spaced apart from the central electrode in a general direction towards the right mid-axillary line of the subject;

wherein application of at least one pulsed signal to the subject through the respective central and side electrodes stimulates the abdominal muscles of the subject.

2. (Cancelled)

3. (Original) The device as claimed in claim 1 wherein the secondary locating means are disposed on the attachment means for locating the respective side electrodes towards the mid-point of the corresponding mid-axillary line between the rib cage and the corresponding iliac crest.

4. (Original) The device as claimed in claim 1 wherein the secondary locating means are disposed on the attachment means for locating the respective side electrodes adjacent the corresponding mid-axillary line.

5. (Original) The device as claimed in claim 4, wherein the secondary locating means are disposed on the attachment means for locating the respective side electrodes adjacent the mid-point of the corresponding mid-axillary line between the rib cage and the corresponding iliac crest.

Q2 6. (Original) The device as claimed in claim 1, wherein the main locating means is disposed on the attachment means for locating the central electrode on the umbilicus and extending around the umbilicus.

---

7. (Original) The device as claimed in claim 1, wherein the main locating means is disposed on the attachment means for locating the central electrode on the umbilicus and extending completely around the umbilicus.

8. (Original) The device as claimed claim 1, further comprising a reference means provided on the attachment means for locating the attachment means on the torso relative to an anatomical reference.

9. (Original) The device as claimed in claim 8, wherein the reference means is provided for locating the attachment means circumferentially around the torso.

10. (Original) The device as claimed in claim 8, wherein the reference means is provided for locating the attachment means vertically along the torso.

11. (Original) The device as claimed in claim 8, wherein the main locating means acts as the reference means for locating the attachment means relative to the anatomical reference provided by the umbilicus.



12. (Original) The device as claimed in claim 1, further comprising two sets of at least two secondary locating means disposed on the respective opposite sides of the main locating means for facilitating selective location of the respective side electrodes for accommodating different girths of torso.

13. (Original) The device as claimed in claim 12, wherein each set of secondary locating means comprises three secondary locating means.

A2 14. (Original) The device as claimed in claim 1, wherein portions of the attachment means on respective opposite sides of the main locating means between the main locating means and the corresponding secondary locating means are formed of resilient material for facilitating resilient stretching of the attachment means between the main and corresponding secondary locating means.

15. (Currently Amended) The device as claimed in claim 14 characterized in that the attachment means comprises ~~is formed of~~ a resilient material for facilitating stretching of the attachment means around the torso, the resilient portions of the attachments means being of greater stretchability than that of ~~the rest of the~~ other materials of the attachment means.

16. (Currently Amended) The device as claimed in claim 1, further comprising a main electrically conductive contact means provided on the attachment means corresponding to each the main locating means for receiving the at least one pulsed signal and for relaying the signal to the corresponding central electrode.

17. (Original) The device as claimed in claim 16, wherein each main contact means is located within the corresponding main locating means.

18. (Original) The device as claimed in claim 1, further comprising two secondary electrically conductive contact means provided on the attachment means for receiving the at least one pulsed signal and for relaying the signal to the respective corresponding side electrodes.

19. (Currently Amended) The device as claimed in claim 18, wherein each secondary contact means is located adjacent the corresponding secondary locating means ~~or the corresponding set of secondary locating means.~~

*a<sup>2</sup>*  
20. (Currently Amended) The device as claimed in claim 18, wherein each secondary contact means is located adjacent the ~~corresponding set of secondary locating means~~ so that irrespective of which secondary locating means is selected for locating the corresponding side electrode the side electrode is in electrically conductive engagement with the secondary contact means.

21. (Original) The device as claimed in claim 1, wherein each main and secondary locating means is provided as a visually perceptive locating means.

22. (Original) The device as claimed in claim 1, wherein each main and secondary locating means is formed as a corresponding locating mark on the attachment means.

23. (Original) The device as claimed in claim 1, wherein each locating means is adapted for locating a patch type electrode.

24. (Original) The device as claimed in claim 1, wherein the at least three electrodes are formed as a removable part of the device.

25. (Original) The device as claimed in claim 24, wherein each electrode is a patch type electrode.

26. (Original) The device as claimed in claim 25, wherein each side electrode is sized to cover at least a portion of the corresponding lower thoracic nerves and the corresponding first and second lumbar nerves.

27. (Currently Amended) The device as claimed in claim 25, wherein each the central electrode is sized to extend substantially across the rectus abdominus muscle.

28. (Original) The device as claimed in claims 25, wherein each electrode defines an area of contact over which the electrode makes direct electrical contact with the subject, the area of contact of each side electrode being such as not to exceed the area of contact of the central electrode.

29. (Original) ~~The device as claimed in claim 28, wherein each side electrode is of~~  
width in a circumferential direction relative to the torso of the subject in the range of 50 mm to 150 mm.

30. (Original) The device as claimed in claim 25, further comprising an electrically conductive coating provided on a side of each electrode facing away from the attachment means for electrically coupling the electrode to the torso of the subject.

31. (Original) The device as claimed in claim 30, wherein the coating is a gel type coating.

32. (Original) The device as claimed in claim 1, further comprising a receiving means provided in the attachment means for receiving a signal generating means for generating the at least one pulsed signal.

33. (Currently Amended) The device as claimed in claim 32, further comprising a main electrical connecting means extending between the receiving means and signal generating

means, and each a main contact means for relaying the at least one pulsed signal from the signal generating means to the corresponding main contact means.

34. (Currently Amended) The device as claimed in claim 33, wherein each the electrical connecting means is located within the attachment means.

35. (Currently Amended) The device as claimed in claim 32, further comprising a secondary electrical connecting means ~~extends~~ extending between the receiving means and each the secondary contact means for relaying the at least one pulsed signal from the signal generating means to the corresponding secondary contact means.

36. (Currently Amended) The device as claimed in claim 35, wherein each the electrical connecting means is located within the attachment means.

---

37. (Original) The device as claimed claim 32, wherein the receiving means is a releasable receiving means for releasably receiving the signal generating means.

38. (Original) The device as claimed in claim 1, wherein the attachment means comprises a belt.

39. (Original) The device as claimed in claim 38, further comprising a securing means provided on the belt for securing the belt around the torso of the subject.

40. (Original) The device as claimed in claim 1, further comprising a main fastening means provided corresponding to the main locating means for fastening a central electrode to the attachment means adjacent the corresponding main locating means.

41. (Original) The device as claimed in claim 40, wherein the main fastening means comprises a stud fastener.

42. (Original) The device as claimed in claim 1, further comprising two secondary fastening means provided in the attachment means for fastening the respective side electrodes to the attachment means adjacent the corresponding selected secondary locating means.

43. (Original) The device as claimed in claim 42, wherein each fastening means comprises a stud fastener.

44. (Original) The device as claimed in claim 43, wherein each stud fastener comprises a female part and a male part.

45. (Original) The device as claimed in claim 44, wherein each stud fastener is electrically conductive so that the portions of the stud fasteners fastened to the attachment means form the corresponding contact means.

46. (Original) The device as claimed in claim 44, wherein an exposed surface of the portions of each stud fastener fastened to the attachment means is of electrically insulating material.

47. (Original) The device as claimed in claim 46, wherein the exposed surface of each part of each stud fastener attached to the attachment means is coated with an electrically insulating coating.

48. (Original) The device as claimed in claim 43, wherein the stud fastener comprises a first part for attaching to a corresponding electrode, and a second part for attaching to the attachment means.

49. (Original) The device as claimed in claim 48, wherein the first and second parts of the stud fastener engage each other with electrically conductive engagement.

50. (Original) The device as claimed in claim 48, wherein an exposed external surface of the second part of the stud fastener which abuts the first part of the stud fastener is of electrically insulating material.

51. (Original) The device as claimed in claim 50, wherein the electrically insulating material is provided by an electrically insulated coating on the exposed abutting surface.

52. (Currently Amended) A method for stimulating abdominal muscles of a subject, comprising the steps of:

Q2 providing at least three electrodes, one of the at least three electrodes being a central electrode located adjacent substantially about the umbilicus of the subject, and the other two electrodes being side electrodes located on the subject spaced apart from the central electrode, a first of the side electrodes being located substantially about the left mid-axillary line and a second of the side electrodes being located substantially about the right mid-axillary line ~~on respective sides thereof in a general direction towards a corresponding one of the left and right mid-axillary lines~~ of the torso intermediate the rib cage and corresponding left and right iliac crests; and

passing at least one pulsed signal subcutaneously through the subject between the at least three electrodes.

53. (Original) The method as claimed in claim 52, wherein each side electrode is located towards the mid-point of the corresponding mid-axillary line between the rib cage and the corresponding iliac crest.

54. (Original) The method as claimed in claim 52, wherein each side electrode is located adjacent the corresponding mid-axillary line.

55. (Original) The method as claimed in claim 54, wherein each side electrode is located adjacent the mid-point of the corresponding mid-axillary line between the rib cage and the corresponding iliac crest.

56. (Original) The method as claimed in claim 52, wherein the central electrode is located on the umbilicus and extends around the umbilicus.

57. (Original) The method as claimed in claim 52, wherein the central electrode is located on the umbilicus and extends completely around the umbilicus.

58. (Original) The method as claimed in claim 52, wherein the central electrode is located on the umbilicus, but with a greater area of the central electrode located below the umbilicus than above the umbilicus.

---

59. (Original) The method of claim 52, further comprising the step of applying the at least one pulsed signal to the subject so that the signal passes subcutaneously through the subject between the at least three electrodes.

60. (Original) The method as claimed in claim 52, wherein the at least one pulsed signal is applied simultaneously to each of the side electrodes.

61. (Original) The method as claimed in claim 52, wherein each pulsed signal comprises a plurality of pulses at intervals in the range of 5 milliseconds to 1000 milliseconds.

62. (Original) The method as claimed in claim 61, wherein each pulsed signal comprises a plurality of pulses at intervals in the range of 20 milliseconds to 40 milliseconds.

63. (Original) The method as claimed in claim 62, wherein each pulsed signal comprises a plurality of pulses at intervals of approximately 30 milliseconds  $\pm$  20%.

64. (Original) The method as claimed claim 52, wherein the interval between pulses of each pulsed signal is adjustable.

00179233

65. (Original) The method as claimed in claim 52, wherein each pulsed signal comprises pulses of duration in the range of 10 microseconds to 200000 microseconds.

66. (Original) The method as claimed in claim 65, wherein each pulsed signal comprises pulses of duration in the range of 50 microseconds to 1000 microseconds.

67. (Original) The method as claimed in claim 66, wherein each pulsed signal comprises pulses of duration in the range of 100 microseconds to 500 microseconds.

68. (Original) The method as claimed in claim 67, wherein each pulsed signal comprises pulses of duration of approximately 300 microseconds  $\pm$  20%.

69. (Original) The method as claimed in claim 52, wherein the duration of each pulsed signal is adjustable.

---

70. (Original) The method as claimed in claim 52, wherein each pulsed signal comprises a plurality of pulses of magnitude in the range of 0 mA to 100 mA.

71. (Original) The method as claimed in claim 52, wherein the magnitude of each pulse of each pulsed signal is adjustable.

---



**REMARKS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested.

**I. STATUS OF CLAIMS AND FORMAL MATTERS**

Claims 1, and 3-71 are pending with all claims having been rejected by the Office Action. Claim 2 has been cancelled by these amendments.

It is submitted that these claims are patentably distinct from the prior art cited by the Examiner, and that these claims are in full compliance with the requirements of 35 U.S.C. §112. The remarks made herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather the amendments and remarks made herein are simply for clarification and to round out the scope of protection to which Applicants are entitled.

The amendments to the specification have been made to place the application in conformity with U.S. customary practice and 37 C.F.R. 1.77.

The Examiner has indicated that to perfect priority based upon an application filed in Ireland on 1/11/1999 a certified copy of the application must be filed with the U.S. Patent and Trademark Office. In an effort establish the claim of priority, a certified copy of the Irish Application has been ordered and will be submitted in a supplemental response to this Office Action. In any event an un-certified copy of the priority document is submitted herewith in order to further prosecution.

The title of the application has been objected to, in response, the title suggested by the Examiner has been substituted for the original title to overcome this objection. Accordingly, it is requested that this objection be withdrawn.

Finally, the Examiner has objected to claim 35 due to an informality. In response, claim 35 has been amended as suggested by the Examiner and it is requested that the objection be withdrawn.

## **II. 35 U.S.C. § 112**

Claims 15-17, 19-20, 27, and 33-36 have been rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Office Action points out instances of insufficient antecedent basis. In response, the claims listed above have been amended to correct these insufficiencies. Accordingly, it is respectfully requested that the rejections under § 112, second paragraph be withdrawn.

---

## **III. 35 U.S.C. § 102 REJECTIONS**

The Office Action rejects claims 1-5, 8-11, 14-15, 21-26, 30-31, 38-39, 52-55, 59, and 61-71 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,190,036 to Linder. To the best of Applicants attorney's understanding, the Office Action argues that the location of the central and side electrodes is taught by Linder in that the center electrode of the two sets of three electrodes is adjacent the umbilicus and the other two electrodes are adjacent the respective left and right mid-axillary lines of the subject.

In response, claims 1 and 52 have been amended to clarify that the central electrode is located "substantially about" the umbilicus of the subject and that the side electrodes are located "substantially about" the respective left and right mid-axillary lines. In other words, there is one electrode in the region of the left mid-axillary line, one in the region of the right mid-axillary line, and one in the region of the umbilicus. Linder does not teach such a configuration of electrodes. Accordingly, it is respectfully submitted that independent claims 1 and 52 as

00179233

amended patentably distinguish over Linder and are allowable. Claims 3-51, and 53-71 depend from allowable base claims and are allowable therewith.

The Office Action also rejects claims 1-12, 14-23, 27-28, 32-36, 38-39, 52-60, and 71 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,341,237 to Hurtado. As discussed above it is respectfully submitted that this application is a continuation application of PCT/IE00/00004, filed on January 11, 2000 which claims the benefit of priority to Irish Application No. S1999/0016, filed on January 11, 1999. Further, it is submitted that a certified copy of the priority document has been ordered and shall be submitted in a supplemental response. Accordingly, as the present invention claims priority to a date which predates the earliest priority date of Hurtado, it is respectfully requested that these rejections be withdrawn.

Finally, the Office Action rejects claims 13, 29, 37, 40-51 as unpatentable over combinations of Hurtado, Linder, and U.S. Patent No. 4,381,012 to Russek. As both Linder and Hurtado have been distinguished above, and because these rejections deal solely with dependent claims that depend from an allowable base claim, it is respectfully submitted that these claims patentably distinguish over the combinations of references are allowable.

Accordingly, withdrawal of the rejections and allowance of claims 1, and 3-71 is respectfully requested.

**CONCLUSION**

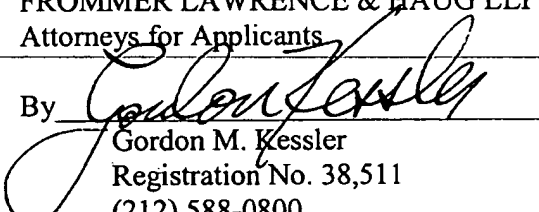
In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By



---

Gordon M. Kessler  
Registration No. 38,511  
(212) 588-0800  
Fax (212) 588-0500

3762\$



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Michael Conor MINOGUE  
Michael Louis CROWE

U.S. Appln. No. : 09/902,287

U.S. Filing Date : July 10, 2001

Title of Invention : AN ELECTROTHERAPY DEVICE AND METHOD

Examiner: K. Drosch

Group Art Unit: : 3762

RECEIVED  
MAR 16 2004  
TECHNOLOGY CENTER R3700

745 Fifth Avenue  
New York, NY 10151  
Tel: 212-588-0800

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an amendment in the above-identified application.

- ☐ No additional fee is required.
- ☒ The fee has been calculated as shown below.
- ☒ This is an application of a small entity under 37 CFR 1.9(f), and the amounts shown in parentheses apply.

## Claims as Amended

(1)	(2) Claims remaining after amendment	(3)	(4) Highest number previously paid for	(5) Present extra	(6) Rate	(7) Additional Fee
Total claims	68	Minus	** = 69	* 0 x	\$18 (9)	= \$ 0
Independent claims	2	Minus	*** = 3	* 0 x	\$86 (43)	= \$ 0
Total additional fee for this amendment						\$ 0

- \* If the entry in Column 2 is less than the entry in Column 4, write "0" in Column 5.
- \*\* If the highest number of total claims previously paid for is less than 20, write "20" in this space.
- \*\*\* If the highest number of independent claims previously paid for is less than 3, write "3" in this space.

- ☐ This application contains a multiple dependent claim. The required fee of \$290(145) has been previously paid ☐, or is paid herewith ☐.
- ☒ This response is being filed within the third (3<sup>rd</sup>) month following the expiration of the term originally set therefor. This is a petition to request a three (3) month extension of time. A check covering the cost of the petition is enclosed.
- ☒ A check in the amount of \$475.00 is attached, which covers the cost of ☐ additional claims \_\_\_\_\_ petition for extension of time.
- ☐ Charge \$ \_\_\_\_\_ to Deposit Account No. 50-0320.
- ☒ Please charge any additional fees incurred by reason of this response or credit any overpayment to Deposit Account No. 50-0320.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 9, 2004.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

Name of Applicant, Assignee or Registered Representative

*Gordon Kessler*  
*Gordon Kessler*  
Signature  
March 9, 2004  
Date of Signature

By:

*Gordon M. Kessler*  
Gordon M. Kessler  
Reg. No. 38,511  
Tel: 212-588-0800

**REQUEST FOR EXTENSION OF TIME**

Pursuant to 37 C.F.R. §1.136, a three-month extension of the period for reply, i.e., up to and including March 12, 2004, is respectfully requested. A check for \$475.00 in payment of the fee under 37 C.F.R. §1.17(a) is enclosed. The Commissioner is authorized to charge any additional fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

---

# EXHIBIT E



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov



Bib Data Sheet

CONFIRMATION NO. 8694

SERIAL NUMBER 09/902,287	FILING DATE 07/10/2001  RULE	CLASS 607	GROUP ART UNIT 3766	ATTORNEY DOCKET NO.
-----------------------------	---------------------------------------	--------------	------------------------	------------------------

## APPLICANTS

Michael Conor Minogue, Croshua, IRELAND;

Michael Louis Crowe, Dublin, IRELAND;

*verified LDM*

\*\* CONTINUING DATA \*\*\*\*\*

*none LDM*

\*\* FOREIGN APPLICATIONS \*\*\*\*\*

IRELAND S990016 01/11/1999

*verified LDM*

IF REQUIRED, FOREIGN FILING LICENSE GRANTED

\*\* SMALL ENTITY \*\*

\*\* 08/28/2001

Foreign Priority claimed <input checked="" type="checkbox"/> yes <input type="checkbox"/> no	STATE OR COUNTRY IRELAND	SHEETS DRAWING 10	TOTAL CLAIMS 71	INDEPENDENT CLAIMS 2
35 USC 119 (a-d) conditions met <input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> Met after Allowance				
Verified and Acknowledged Examiner's Signature <i>W. J. McLean LDM</i> Initials				

## ADDRESS

20999  
 FROMMER LAWRENCE & HAUG  
 745 FIFTH AVENUE- 10TH FL.  
 NEW YORK, NY  
 10151

## TITLE

*See SPEC 3/11/04*~~Electrotherapy device and method~~*Abdominal Belt with Adjustable Electrodes*

FILING FEE  RECEIVED 969	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	<input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees ( Filing ) <input type="checkbox"/> 1.17 Fees ( Processing Ext. of time ) <input type="checkbox"/> 1.18 Fees ( Issue ) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit
-----------------------------------	---	---



# EXHIBIT F

Please type a plus sign (+) inside this box → [X]

PTO/SB/05 (09/04)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

051206

17567 U.S. PTO

# UTILITY PATENT APPLICATION TRANSMITTAL

Only for new nonprovisional applications under 37 CFR 1.53(b)

Attorney Docket No.	660057-2005.1
First Inventor	Michael Conor Minogue et al.
Title	AN ELECTROTHERAPY DEVICE AND METHOD
Express Mail Label No.	EV746685473US

112959 U.S. PTO  
11/4/04 436

051206

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

Addressed to: Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

1. ☒ **Fee Transmittal Form** (e.g., PTO/SB/17)  
(Submit an original, and a duplicate for fee processing)
2. ☒ **Applicant claims small entity status.**  
See 37 CFR 1.27.
3. ☒ **Specification, including Abstract** [Total Pages 43]  
Both the claims and abstract must start on a new page  
(For information on the preferred arrangement, see MPEP 608.01(a))
4. ☒ **Drawing(s)** (35 U.S.C. 113) [Total Sheets 10]
5. **Oath or Declaration** [Total Pages 2]
  - a. ☐ Newly executed (original or copy)
  - b. ☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 18 completed)
    - i. ☐ **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s)  
named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).

6. ☐ **Application Data Sheet.** See 37 CFR 1.76.
7. ☐ **CD-ROM or CD-R** in duplicate, large table or Computer Program (Appendix)
8. **Nucleotide and/or Amino Acid Sequence Submission**  
(if applicable, all necessary)
  - a. ☐ Computer Readable Form (CFR)
  - b. **Specification sequence Listing on:**
    - i. ☐ CD-ROM or CD-R (2 copies); or
    - ii. ☐ paper
  - c. ☐ Statements verifying identity of above copies.

## ACCOMPANYING APPLICATION PARTS

9. ☐ **Assignment Papers** (cover sheet & documents(s))  
Name of Assignee \_\_\_\_\_
10. ☐ **37 CFR 3.73(b) Statement** ☐ **Power of Attorney**  
(when there is an assignee)
11. ☐ **English Translation Document** (if applicable)
12. ☒ **Information Disclosure Statement** (PTO/SB/08 or PTO-1449)  
☐ Copies of citations attached
13. ☒ **Preliminary Amendment**
14. ☒ **Return Receipt Postcard** (MPEP 503)  
(Should be specifically itemized)
15. ☐ **Certified Copy of Priority Document(s)**  
(if foreign priority is claimed)
16. ☐ **Nonpublication Request** under 35 U.S.C. 122(b)(2)(B)(i).  
Applicant must attach from PTO/SB/35 or its equivalent.
17. ☐ **Other:** \_\_\_\_\_

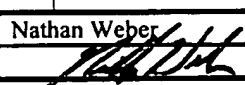
18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/902,287  
Prior application information: Examiner: Kristen D. Mullen Group/Art Unit: 3766

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 19. CORRESPONDENCE ADDRESS

☒ Customer Number **20999** or ☐ Correspondence address below

Name	FROMMER LAWRENCE & HAUG LLP						
Address	745 FIFTH AVENUE						
City	NEW YORK	State	NY	Zip Code	10151		
Country	U.S.A.	Telephone	(212) 588-0800	Fax	(212) 588-0500		
Name (Print/Type)	Nathan Weber			Registration No. (Attorney/Agent)	50,958		
Signature				Date	May 12, 2006		

This collection of information is required by 37 CFR 1.51. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) and application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.1 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the complete application to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

00370885

CERTIFICATE OF MAILING - SEPARATE PAPER

"Express Mail" mailing label number: EV746685473US

Date of Deposit: May 12, 2006

I hereby certify that this Patent Application and the accompanying papers are  
being deposited with the United States Postal Service "Express Mail Post Office to Addressee"  
service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Adam Ahmed

(Typed or printed name of person mailing paper or fee)

A. Ahmed

(Signature of person mailing paper or fee)

051206

Effective on 12/08/2004 Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b>	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	To Be Assigned
TOTAL AMOUNT OF PAYMENT \$500.00		Filing Date	Herewith
		First Named Inventor	Michael Conor Minogue et al.
		Examiner Name	Kristen D. Mullen (Parent Application)
		Art Unit	3766 (Parent Application)
		Attorney Docket No.	660057-2005.1

**METHOD OF PAYMENT (check all that apply)**

☒ Check     ☐ Credit Card     ☐ Money Order     ☐ None     ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account     Deposit Account Number: 50-0320     Deposit Account Name: Frommer Lawrence & Haug LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below     ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s)     ☐ Credit and overpayments

**WARNING: Information on this form may become public. Credit Card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid(\$)
	Fee(\$)	Small Entity Fees(\$)	Fee(\$)	Small Entity Fees(\$)	Fee(\$)	Small Entity Fees(\$)	
Utility	300	150	500	250	200	100	\$500.00
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent  
 Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent  
 Multiple dependent claims

	Small Entity
Fee(\$)	Fees(\$)
50	25
200	100
360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims
20	-20 or HP = 0 x	50.00 =	0.00	Fee (\$)
HP = highest number of total claims paid for, if greater than 20				
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Fee Paid (\$)
1	-3 or HP = 0 x	200.00 =	0.00	
HP = highest number of total claims paid for, if greater than 3				

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 or small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
53 - 100 =	0/ 50 =	0 (round up to a whole number) x	0.00 =	0.00

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity)  
 Other: \_\_\_\_\_

Fee Paid (\$)  
0.00

**SUBMITTED BY**

Signature		Registration No.	50,958	Telephone	212-588-0800
Name (Print/Type)	Nathan Weber	(Attorney/Agent)		Date	May 12, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1540. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

# EXHIBIT G



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/434,436	05/12/2006	3766	500	660057-2005.1	10	20	1

CONFIRMATION NO. 3949

20999  
 FROMMER LAWRENCE & HAUG  
 745 FIFTH AVENUE- 10TH FL.  
 NEW YORK, NY 10151

## FILING RECEIPT



\*OC000000019192823\*

DOCKETED

Date Mailed: 06/09/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Michael Conor Minogue, Kinvara, IRELAND;  
 Michael Louis Crowe, Dublin, IRELAND;

## Power of Attorney:

Gordon Kessler-38511

## Domestic Priority data as claimed by applicant

This application is a DIV of 09/902,287 07/10/2001 PAT 7,069,089

## Foreign Applications

IRELAND S990016 01/11/1999  
 IRELAND PCT/IE00/00004 01/11/2000

If Required, Foreign Filing License Granted: 06/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US11/434,436**

Projected Publication Date: 09/14/2006

Non-Publication Request: No

Early Publication Request: No

2006 JUN 12 A 9:43  
 FROMMER, LAWRENCE  
 & HAUG, LLP

**\*\* SMALL ENTITY \*\*****Title**

Electrotherapy device and method

**Preliminary Class**

607

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER****Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

#### **NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

---



**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:**

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**